

**CITY OF MILPITAS
UNAPPROVED**

PLANNING COMMISSION MINUTES

April 14, 2004

**I.
PLEDGE OF
ALLEGIANCE**

Chair Nitafan called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

**II.
ROLL CALL**

Present: Nitafan, Lalwani, Galang, Giordano, Mohsin and Sandhu
Late: Garcia (Arrived at 8:38 p.m.)
Staff: Carrington, DeVries, Lindsay, Marion, McNeely, Medina, Pilot and Rodriguez

**III.
PUBLIC FORUM**

Chair Nitafan invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

Frank DeSchmidt, Chamber of Commerce invited the public to attend “Good Morning Milpitas” on April 16th at 7:30 a.m. at the Embassy Suites Hotel to hear speaker Carl Guardino discuss transportation issues.

He also invited the public to attend Mayor Jose Esteves State-of-the-City Address on April 21st at 6 p.m. in the City Hall Council Chambers.

**IV.
APPROVAL OF MINUTES
March 24, 2004**

Chair Nitafan called for approval of the minutes of the Planning Commission meeting of March 24, 2004.

There were no changes from staff.

Motion to approve the minutes as submitted.

M/S: Lalwani/Giordano

AYES: 6

NOES: 0

**V.
ANNOUNCEMENTS**

James Lindsay, Acting Planning Manager, reminded the Commission that the last two ethic code preparation workshops will be held on April 22nd and May 5th at the Community Meeting room in City Hall at 7 p.m. and all Commissioners are welcomed and encouraged to attend. Participation in previous meetings is not required and the Commission could attend any meeting to help put the ethic code together.

Chair Nitafan attended the Planner’s Institute in Monterey and noted that he attended a (RLUIPA) seminar that addressed religious land use issues and institutionalized persons act and other 1st amendment issues.

Chair Nitafan explained that the RLUIPA seminar was very timely in light of recent Planning Commission conversations about locating churches in industrial areas. He explained that some of the information he learned was that the ability to regulate religious institutions is limited because of limited discretion, neutral content, secondary effects and great proclivity toward litigation.

If the Commission decides to turn away a religious institution, the Commission would have to establish substantial burden of proof as well as compelling interest of the government for land use. He stated that the Commission and Council has to understand the limits of discretion and keep the hearing under tight control because of first amendment rights and to stick to the issues at hand and do not let the religious hearing or discussion become emotional and basically become familiar with the First Amendment Law.

Chair Nitafan asked staff and the City attorney to review the ordinance as it relates to RLUIPA and come back to the Commission to make sure that the ordinance is in conformance with RLUIPA law because the City is open to litigation and the City needs to be protected.

The Commission concurred.

**VI.
APPROVAL OF
AGENDA**

Chair Nitafan called for approval of the agenda.

There were no changes from staff.

Motion to approve the agenda.

M/S: Lalwani/Sandhu

AYES: 6

NOES: 0

**VII.
CONSENT CALENDAR
Item No. 3**

Chair Nitafan asked whether staff, the Commission, or anyone in the audience wished to remove or add any items to the consent calendar.

There were no changes from staff.

Motion to approve the consent calendar under New Business on Consent Item No. 3.

***3 'S' ZONE APPROVAL AMENDMENT NO. SA2004-13** *(Continued from March 24, 2004):* Request to install an 8-foot tall fence located at the rear of 244, 255 & 260 South Main Street (APNs: 086-27-013 & 014), zoned Mixed Use (MXD). Applicant: Jim Rocha, Jr. Project Planner: Kim Duncan, (408) 586-3283. *(Recommendation: Approval with Conditions)*

M/S: Giordano/Sandhu

AYES: 6

NOES: 0

**VIII.
NEW BUSINESS**

**1. PRESENTATION OF
THE 2004-2009 CAPITAL
IMPROVEMENT**

PROGRAM (CIP): *Staff
Contact: City Engineer Mike
McNeely, 586-3301 and
Associate Civil Engineer
Doug De Vries, 586-3313.*

Mr. Lindsay stated that at the last meeting, the Planning Commission requested staff to come back with information on the public meetings on the Berryessa Creek improvements and noted that the City engineer will be including that within the presentation.

Mike McNeely, City Engineer, introduced Doug DeVries, Program Manager, who prepared the documents associated with the CIP and DucoJan Pilot who helped assist with the CIP.

Doug DeVries, Associate Civil Engineer, presented the 2004-2009 Capital Improvement Program (CIP) presentation on the CIP program, providing an overview of the proposed 2004–2009 Draft CIP Annual Report and recommended that the Planning Commission find the 2004-2009 CIP in conformance with the General Plan and recommend this proposed Capital Improvement Program to City Council.

Mr. DeVries presented the various CIP programs, which included projects from community improvements, parks, streets, water, sewer and storm drains.

Chair Nitafan asked the Commission to comment on the community improvement projects.

Commissioner Giordano asked for clarification on the Midtown parking garage design project on page 39 and the Midtown parking garage appraisals on page 32. She noted that the design project stated that the \$3.9 million for the property acquisitions are yet to be determined and the property acquisitions for the parking garage appraisals has begun. She asked the distinction between the two.

Mr. McNeely replied that the two projects may eventually be combined and that the appraisals are on going. He also noted that the concepts are heading towards a parking garage south of the proposed library site (senior center), and the parking garage would go back all the way to Winsor.

Commissioner Giordano asked if the appraisers evaluated the properties nearby the proposed library. Mr. McNeely explained that with any property acquisitions, staff hires a licensed appraiser who prepares an estimate of fair market value and provides those offers to the property owners. He explained that the appraisals are underway and the cost of the appraisals is a very preliminary estimate.

Commissioner Giordano asked about the \$5,000 allocation under the line item “other” and Mr. McNeely responded that he wasn’t sure and that staff would have to get back to her.

Commissioner Giordano noted that on page 39 under the midtown parking garage design, staff has yet to determine the acquisitions costs of the property. She asked where is staff getting the \$3 million dollar estimate for land. Mr. McNeely explained that it is a very preliminary estimate until staff gets the appraisals.

Commissioner Giordano noted that on page 40 under library design, the line item for improvements states \$1.1 million for the 2004-2005 fiscal year and asked what exactly will the improvements entail since the building process has not begun. Mr. McNeely noted that the money is for initial utility relocations.

Commissioner Giordano noted that on page 42 under the Sports center swimming pool improvements, staff is estimating those improvements not be done until fiscal year 2008-2009 and asked why is staff waiting three years to renovate the swimming pools and asked if anyone raised a concern in that area.

Mr. DeVries explained that the money for the swimming pool improvements is a rehabilitation of existing capital assets and is lower on the priority list than other projects. It is planned further out to make sure that staff can address it at a future time.

Commissioner Giordano is concerned about pool maintenance and noted that if staff waits too long, there will be a larger problem at hand. She asked if anyone has addressed concerns about the pool and Mr. DeVries responded "No".

Vice Chair Lalwani asked if the \$15.915 million dollars on the summary page is the total budget of the CIP program. Mr. McNeely explained that the money includes budgeted money from prior years and that staff plans to deliver projects in that amount in the upcoming fiscal year and the projects will be either delivered, awarded, studies completed and/or design completed.

Vice Chair Lalwani noted that out of the \$15.915 million, the cost for community improvements is \$7.89 million, so staff is spending approximately 50% of the total budget on community improvements. She also noted that \$3 million allocated for the library budget is 25% of the whole budget. Mr. McNeely and Mr. DeVries agreed.

Vice Chair Lalwani asked if the \$900,000 for the Midtown parking garage design is part of the library project or separate and Mr. McNeely replied that both projects are separate.

Vice Chair Lalwani asked staff if they have taken into consideration inflation rates and other unforeseen circumstances, or if the numbers presented are raw numbers. Mr. McNeely replied that the numbers presented are predicated at the time expended through June of 2005 and for all of the numbers presented in the CIP budget, staff has added inflation factors and contingencies for unexpected costs.

Vice Chair Lalwani noted that the \$3 million dollars for land and design administration on page 39 for the Midtown parking garage design, and asked what other cost does staff expect for inspection and improvements. Mr. McNeely explained that the cost of the library and parking structure have not been determined yet and when they are determined staff will be able to properly assess the cost of surveying for the construction inspection. So for now, staff doesn't want to make an estimate.

Vice Chair Lalwani asked if staff has an idea what the estimate would be to build the parking garage and Mr. McNeely replied that staff does not want to go into costs yet because staff is still looking at concepts.

Commissioner Sandhu noted that on page 24 under the Senior Center renovation, the project includes a commercial kitchen. He asked if the kitchen would serve the civic center and community center and where would the kitchen be located. Mr. McNeely explained that the expansion provision for a new kitchen facility is attached to the new facility and would tentatively serve both facilities. The concept that is being looked at is an extension to the east of the library behind the pond near the town center

Commissioner Sandhu asked if the Finance system project, GIS project, new permit systems project and desktop technology project are expenditures for City Hall. **Terry Medina, Information Services**, noted that all technology systems are City Wide expenditures.

Commissioner Mohsin noted on page 25, building improvements, the budget included work to the Police Department community room project on page 33. She asked staff for clarification. Mr. McNeely noted that the building improvements budget is incorporated into both projects and Mr. DeVries added that the Police Department Community room budget will be closed this year.

Commissioner Mohsin noted that the evidence freezer on page 37 is a whole new project and asked what type of improvements are needed. Mr. DeVries explained that the evidence freezer is a large walk in refrigerator that staff has to make building modifications on. The improvements are for the building as opposed to the freezer itself.

Commissioner Galang noted that on page 38, the sports center large gym improvements, the project deliverable amount for June 2005 is \$150,000. He recalled that a few years ago, he mentioned to staff that during the summer, the basketball gym is very hot and there are no windows. There is an entrance door to the front of the gym and a back door, however there is a solid concrete wall near the back door entrance that blocks out air. He suggested that staff put windows in the gym because a lot of basketball players complain about the heat.

Mr. DeVries noted that staff is looking into adding an air conditioning system, roof repairs and installation of insulation to make the air conditioning more efficient.

Commissioner Galang asked if staff turns on the air conditioning during the summertime and Mr. DeVries replied that there is no air conditioning in the large gym. Mr. McNeely added that staff will take Commissioner Galang's suggestion to Council and also noted that Recreation Manager Bonnie Greiner has identified improvements to the gym as a definite need.

Chair Nitafan noted that the library design on page 10 has an uncommitted balance of \$138,000 and asked if the design is completed. Mr. McNeely responded that any amount left over would be rolled back into the fund source, which was the library design and construction project.

Chair Nitafan asked if the \$2.9 million budget for design and administration is correct for the library design project on page 40. Mr. McNeely explained that there is a request for proposals right now for the library on the City's internet and once staff goes through the selection procedure and negotiation, staff will be able to come up with a better figure but as of now, that is the best estimate.

Chair Nitafan asked what is the \$1.1 million dollar in improvements being done from 2004-2005 for the library and Mr. DeVries responded that the improvements are for demolition and Haz Mat evaluation.

Chair Nitafan noted that since staff has the preliminary design, why hasn't the actual budget been included yet and Mr. McNeely responded that the utility modifications and the demolition still have to be done for the library.

Chair Nitafan stated that he always advocates community projects and wanted to know if a feasibility study could be included for a performing arts center project. Mr. McNeely responded that it is not currently in the five-year plan and that the projects are those that have been identified by staff and Council as top priority. Staff wanted to look at the performing arts project but that would come as a follow up and evaluation of what's going to happen with the senior center and if there is any money available thereafter. He explained that the all of the programs listed are what staff can budget for at the present time.

Chair Nitafan stated that staff is behind in that area because the City needs a performing arts center and that is how the City could attract people from other cities as well as keep people here instead of going to San Jose, San Francisco or Cupertino.

Mr. McNeely noted that he would pass the suggestion to Council.

Commissioner Mohsin noted that the gym improvements on page 38 would cost \$35,000 for administration in fiscal year 2004 -2005 and the following year would be \$60,000. She asked staff to explain the increase. Mr. DeVries clarified that the first year involves the initial design of the project and the construction of the project would begin in 2005-2006 and managers will be overseeing the construction of the project.

Commissioner Mohsin asked if the budget would take care of the improvements of the air conditioning and the floor in the gym and Mr. DeVries responded, "Yes.

Commissioner Giordano asked staff if they have an intended use for the interim senior center that has now been built. She noted that staff is adding another \$100,000 for improvements in the next fiscal year and wanted to make sure that staff is keeping mindful of what the transitional use will be after the senior center moves out to its new location.

Mr. McNeely explained that staff will have a valuable use for the interim senior center such as possibly leasing it out for events and doesn't think there will be a problem in finding a use for it and is assured that it will be a revenue generator. He also noted that there are several options being evaluated and staff has plenty of time to do that in the several years which will be before the permanent senior center will be constructed.

Commissioner Giordano asked what is the driving need for the \$100,000 improvement for the interim senior center for next year and Mr. DeVries replied that the \$100,000 is coming from Community Development Block Grant (CDBG) money that does not become available until July 1st, and when it becomes available, the plan is to use it on equipment for the kitchen. Mr. McNeely added that staff is finishing up on the design and will be going out to bid.

Chair Nitafan asked the Commission to comment on Park projects.

Commissioner Giordano noted that the projects were reviewed by the Parks and Recreation Commission on April 5th and asked if they had any recommendations. Mr. McNeely noted that the recommendation was noted, receipt and filed.

Commissioner Sandhu noted that the Alviso Adobe renovation and site improvements on page 57, and asked if this is the same building that has issues with the Milpitas historical society.

Mr. McNeely explained that staff has been meeting with the Calvary church and are now in agreement with the concept that the City would acquire some property behind Calvary for a parking lot with an access possibly off of Uridias Ranch Road. Staff is in the process of having monthly meetings with Calvary church and is preparing visual aids on what the parking lot would look like and is meeting again the week after next.

Mr. McNeely recalled that this is a pretty giant step because the church wasn't willing to even talk to staff for quite some time. Mr. McNeely felt that it would be a win/win situation because many of the users of the Adobe park will be the church members.

Commissioner Sandhu asked about the roof improvements to the Adobe and Mr. McNeely replied that the roof has been repaired.

Commissioner Galang noted that under the comments section on the athletic court resurfacing on page 61, it states that Calle Oriente will require more extensive work due to extensive asphalt damage. He asked if that was the basketball court or handball courts. Mr. DeVries responded that he took a trip out there and it was primarily the basketball court that needed work on.

Commissioner Galang read under the comments section that at Yellowstone park, two of the four courts have unstable bases and are heaving up and asked which courts are they. Mr. McNeely responded that staff will have to check and get back to him because staff is in the process and investigating and prioritizing each court and balancing it against the available resources to see how many courts can be repaired.

Vice Chair Lalwani commented on the Art in Your Park coordination program and is very happy that the Arts Alliance and the City are working with the local business people. She suggested that the City make more of an effort in reaching out to the business community and that businesses would want to put their name on the art displays.

Commissioner Mohsin asked if there is an allocation of money available where the community could come out and choose the kind of art they want in their park before the Alliance purchases the artwork.

Mr. DeVries explained that there has been some community involvement in past projects and would have to get back to Commissioner Mohsin. Mr. McNeely added that Mark Rogge has been very involved in working with the community to collaborate as much as possible and will talk to him.

Commissioner Giordano recalled that when she first became a member of the Commission a year and a half ago, the meetings took place at the school district site and the Art commission would bring art for the Planning Commission to approve.

Vice Chair Lalwani noted that Hillcrest park, the Arts Commission did reach out to the community and invited them to participate and categorize the art and decide what they wanted. The Arts Commission would then come up with some ideas and bring it back to the residents and everyone would vote. She added that the Art in Your Park Project is very community friendly.

Chair Nitafan asked the Commission to comment on street projects.

In response to Chair Nitafan's question about the Streets budget, Mr. McNeely replied that staff programs the money that is available in regards to redevelopment money and can only use the money for improvement within the redevelopment areas and the specific purposes that the bonds were sold. In regards to resurfacing money, staff is limited. Staff can use some redevelopment funds and street funds. Since state funds have dried up in regards to help for resurfacing projects staff is going for as much federal money as possible and identified the projects that have the biggest benefits for the community. He also added that staff will be utilizing a computer system for resurfacing that is state approved for monitoring the condition of deteriorated streets.

Commissioner Mohsin noted that the Audible Pedestrian Signal Installation on page 100, the \$500 maintenance cost and improvements is \$61,000 and is funded by CDBG funds. She asked what is the money going to be used for. Mr. McNeely responded that the cost are always for new improvements but what is listed at the top are the annual maintenance costs that staff is projecting to maintain the improvements and that comes out of a different fund. That annual maintenance cost at the top is not reflected in the CIP program book because that's out of the city's operating budget when the improvements are installed.

Commissioner Sandhu asked if the Alt Alignment Study Pedestrian / Bicycle Over crossing project on page 115 would be near the Union Pacific railroad. Mr. McNeely stated that about a year and a half ago, staff received a grant and the City had to put up 20%, and 80% was through a grant with VTA. Staff is looking through alternatives for a bicycle pedestrian overpass from the Gibraltar area over to the Great Mall area and VTA is committed to finding 80% of the funds through grant funds for the construction there, so later this year, staff will probably be able to tie down the property owners such as Solelectron and the Great Mall.

Chair Nitafan noted that the Calaveras Blvd. Railroad Over crossing Landscaping on page 110, and asked if this project is additional improvements of the one that was done on Carlo street and if the traffic problems were resolved. Mr. McNeely explained that there have been some landscaping and maintenance installed on the overpass itself and the ultimate project will be finished up in 2005 and 2006 on the overpass. As for Carlo Street, these are two separate projects in the streets program. Mr. McNeely recalled that staff is in the process of doing improvements at Carlo Street and Able Street and that would include closing off the eastbound access road to Carlo street direct and looking at concepts. He also noted that Mr. Lindsay is well aware that if you eliminate the eastbound lane on Carlo, staff would work on a concept to enlarge the mini park and generally improve the aesthetics of the area of Carlo Street and the eastbound Lane would be abandoned.

Chair Nitafan stated that the Carlo intersection is very dangerous, especially when cars merge onto Calaveras.

Mr. McNeely stated that later this year, staff will be embarking on another CIP project in the streets section which would add an additional right turn lane from northbound to eastbound Calaveras and noted that it is a million dollar project, half of which is funded by previous contracts with Cisco systems developments mitigation and staff has until 2005 to spend that money or lose it.

Vice Chair Lalwani asked for clarification on the Calaveras Blvd. Over crossing. Mr. McNeely explained that the right turn lane going north would merge onto Calaveras Blvd. In doing so, staff would add the one northbound to eastbound lane and also eliminate one of the conflicting movements, which is that slip ramp onto eastbound Carlo. He thought that it would be a vast improvement for the intersection, and then someday the overpass would be widened.

Vice Chair Lalwani suggested that a space be added between eastbound and westbound Calaveras and Mr. McNeely replied that it would cost 40 million dollars to do that.

Mr. McNeely recalled that the Council and staff submitted the project in the VTP 2030 plan for priorities countywide, and staff is happy to report that it was ranked no. 1 in the county for funding, that means No. 1 for funding sometime in 2008 at the earliest, and it would be an 80/20 match and the City would have to come up with 20%.

Rob Means, 1421 Yellowstone, commented on the on The Alt. Alignment Study Pedestrian/Bicycle Over crossing on page 115 and noted that this project is of interest to the community. He explained that the crossing has been identified in the general plan and trails master plan, bicycle plan and the midtown plan and all seem to indicate that the City will see a crossing of the railroad tracks right and will connect Yosemite with Curtis. Unfortunately, Solectron has misgivings about a pedestrian over crossing such as security concerns and the net result of the structure is to build a structure that would make residents go around the mall. Mr. Means felt that the over crossing is being built at the wrong place.

Mr. Means noted that an alternative technology of personal rapid transit (PRT) by encapsulating people by a PRT cab may alleviate the concerns that the security people at Solelectron have, meaning that staff might be able to get a crossing where it is needed. The Commission has an opportunity to make a contribution to take a look at PRT crossing and he is starting to solicit contributions from the community on behalf of taking a look at the environmental impacts of PRT and noise and traffic congestion. He felt that the City may end up spending \$100,000 from the City on something that is just not going to fit quite well with the community.

William Connor, 1515 N. Milpitas Blvd., noted that the most important thing to him is to look and see what is going to make Milpitas more efficient and savings benefits for the City. He would like to see a street crossing from Yosemite all the way into Curtis and pointed out that the people on Comet Drive don't want to see traffic. He suggested that building a ramp from Yosemite into Curtis and heading into the back corner of the Great Mall would make it easier for everybody leaving the mall. He also suggested that an intersection at the corner of Yosemite and I-680 would be more efficient. He felt that the City would save money and the mall would see an increase in sales.

Mr. Connor noted that the City would be spending \$100,000 a year for BART over the next five years and announced that BART gave a deadline for 2025/2050 for the new BART system. He felt that the year 2025 is a false number because he didn't think BART was ever going to come to Milpitas and this is the reason that alternative transportation is needed. He agrees with Mr. Means about utilizing a PRT system and he is pushing for magnetic levitation. Mr. Connor also heard from a company that they received a big contract to build a PRT system in Washington and thinks that Cities will start seeing some money come from Washington DC and funding for some new transit systems in the area.

Mr. Connor also stated that he called Union Pacific Railroad to see what lines and real estate are available in the City of Milpitas so that staff can really make proper plans for the future. He felt that five years from now, Shapell will be moving out of its building and Mervyns would be doing the same, so he thinks the City should start to plan ahead and he gave the CIP project an F+ and suggested to send it back and come back with some better ideas.

Chair Nitafan stated that he would take Mr. Means and Mr. Connor's comments and incorporate them into the recommendations to Council, however he noted that there have not been any feasibility studies done for the PRT system as of yet.

Chair Nitafan asked the Commission to comment on water projects.

Chair Nitafan asked if the City's water system has safeguards in place to protect from a terrorist attack. Mr. McNeely responded, "Yes", and noted that the City has undergone an extensive study of what needs to be done and many activities are ongoing, some of which he is not at liberty to detail because of the subject matter itself. He explained that the federal government has dictated that all water systems have to be evaluated in that matter and he has one engineer working with the Public Works supervisor in the last six months and are strategizing and have developed several improvements that can be made and are being done.

As for non-security items, Mr. McNeely noted that staff has done an extensive 20 year plan to evaluate the utility system for the proper maintenance and rehabilitation for the infrastructure when it is needed and the current water and sewer rate structure reflects that plan as does the CIP document. The projects that were identified in the 20-year plan are also included in the five-year plan. He noted that it is on a fundable basis, and staff didn't want to increase water rates by 100% the first year to fund the needed improvements, but there is an extensive long term plan in place.

Commissioner Mohsin asked if the City is working towards improvements for energy, electricity and power. Mr. McNeely responded that staff is looking at opportunities because the City is not a power agency and has to maximize ability. For instance, the City has one co-generation facility at the Sports Center and staff is working on re-negotiating contracts for it, however, since the City is not a utility in that regard, the City doesn't have the capability like some other cities do. Other cities have a utilities generation capability and still have to rely on outside PUC regulated agencies.

Chair Nitafo asked staff for clarification on the Los Coches Water Valve Replacement project on page 149. Mr. DeVries explained that it is a replacement of four valves along Los Coches Boulevard in an industrial area with a large amount of water use in the area. If there is a break in the line, some of the businesses nearby would be affected because staff wouldn't be able to isolate the break and because some of the valves are not working well and it is very difficult to isolate the break in the area.

Chair Nitafo asked if there is any impact to the nearby residential area and Mr. DeVries responded that it is more of an impact to commercial and industrial areas specifically Seagate Technology.

Chair Nitafo asked the Commission to comment on sewer projects.

Commissioner Giordano asked about the large Main Sewer Pump Station Improvements project on page 189 and noted that staff is looking at \$15 million in improvements in the year 2008-2009, and asked where will the funds be coming from. She also noted that \$5 million will be coming from developers and asked staff to clarify.

Mr. McNeely explained that the developers would be asked to pay their fair share of increased flows above the master plan amounts and that staff is trying to think ahead as part of the 20-year plan. He can't be for sure that \$15 million dollars today is correct, however, the funds wouldn't be expended all over one year.

Commissioner Giordano asked staff how they came up with \$15 million dollars in improvements. Mr. DeVries responded that staff wanted to include the Main Sewer Pump Station project in the five-year plan so that everybody is aware that it is coming and staff would have to deal with it at some point.

Mr. McNeely added that the \$15 million is an estimate in the fifth year of the CIP and the estimates for the 2004-2005 fiscal year are pretty accurate. He noted that staff does have a consultant looking at the Main Street Pump station now because there will be work out there associated with the current year in regard to moving the Corp yard out there and demolishing some of the buildings in the underground structures that will be demolished.

Commissioner Giordano asked if the \$5 million dollars in the sewer fund will be coming out for that projected cost, or will the money be recovered over an increase in sewer fees over the next five years. Mr. McNeely recalled that everything falls back to the 20-year plan. Staff is programming some of those funds out in the five years because that's about when they will be available for the 20-year plan.

Commissioner Giordano asked if there is a contingency fund being set up now and Mr. McNeely responded, "Yes" and it is part of the 20-year plan called a rehabilitation fund. He explained that the sewer fund will be easier to set up because the sewer fund has money available. He also pointed out that the water fund is a little more difficult and will take staff a few more years to develop.

Commissioner Garcia arrived at 8:38 p.m.

Chair NitaFan asked the Commission to comment on storm drain projects.

Vice Chair Lalwani asked what is the life expectancy of the pumps and how often do they need repair. Mr. McNeely responded that the pumps are expected to live for 50 years, however in looking at them, the pumps haven't lasted 50 years, so staff is looking at modifications of to the veins and in-flow so that the pumps all operate efficiently.

Mr. DeVries added that staff is looking at the veins and have observed that the diesel engines are starting to overheat during high flow situations and getting near to not being able to keep up with the in flow of water coming into the well, so staff is investigating why that is happening and expecting that to make some modifications to the pumps stations in order to correct that problem.

Vice Chair Lalwani noted that since the life expectancy of the pumps is 50 years and technology has really improved, does staff make improvements after 25 years to make the pumps more efficient. Mr. McNeely explained that it is a judgment call based on the performance of the pumps and minor maintenance for the first 20 years of the pumps is usually required, however he noted that some of the pumps are exhibiting characteristics that make staff wonder if the design wasn't as optimal as it could have been.

Mr. DeVries add that staff has to watch for the reliability of the pumps and the engines and the systems itself and if the reliability is showing weakness then staff needs to address the problem whether it's the pumps or the engines or the veining.

Chair NitaFan asked if the Abbott storm drain pump replacement is another improvement in the area since Abbott is a flood zone area. Mc McNeely noted that Abbot has been identified as a good idea if it can be funded and is similar to the utility water and sewer master plan done a few years back when staff did a storm drain master plan and Abbot was identified. Mr. McNeely noted that if staff does not do the project on Abbott, staff will be spending more money on the downstream pumping facility at California Circle and the big pumps there at the lagoon will have to be upsized. He noted that the Abbott project is an ongoing identification of a need that has been identified and that needs to be renovated.

Chair Nitafan noted that the Commission needs to make a motion to include the Commission's recommendations.

Mr. Lindsay noted that the motion for the Commission is to find the fiscal year 2004-2009 CIP in conformance with the general plan and recommend the proposed CIP program to Council.

Commissioner Giordano moved the motion and Commissioner Sandhu seconded the motion.

Chair Nitafan noted that he would like to include a performing arts center as part of the recommendations to Council for his reasons mentioned earlier in the meeting.

Mr. McNeely responded that if there is consensus among the Commission, he would include the performing arts center as one of the recommendations to Council and Vice Chair Lalwani agreed with Chair Nitafan.

Commissioner Sandhu felt that that the additional recommendations should not be part of the motion and Commissioner Giordano echoed Commissioner Sandhu's comments.

Mr. McNeely suggested that the Commission adopt the first motion and then summarize the comments that would be passed onto Council.

Motion to find the 2004-2009 CIP in conformance with the General Plan and recommend the proposed Capital Improvement Program to City Council

M/S: Giordano/Sandhu

AYES: 6

NOES: 0

ABSTENTIONS: 1 (Garcia) – Absent at the beginning of the meeting.

Vice Chair Lalwani made a motion for the Commission to include all the comments and feedback to the Council, which includes the performing arts center and Commissioner Mohsin seconded the motion.

Mr. Lindsay clarified that staff does have the minutes which is a reflection of the discussion that occurred, however he is not sure when the item will be before the City Council and whether the minutes will be ready. Staff would recommend that if there is specific items that is of special concern to the Commission that those concerns be addressed and request that staff forward those specific items as Planning Commission comments onto the CIP as a preferred alternative, or as the motion is currently worded, the minutes would serve as the record of the planning Commission comments as those would be provided to the Council during its consideration to the CIP.

Vice Chair Lalwani wanted to make the comments more specific and so in her motion, she included what the Chair had suggested about performing arts and Commissioner Mohsin echoed Vice Chair Lalwani's comments.

Commissioner Galang added that his suggestion to add windows in the basketball court be recommended to Council.

Commissioner Giordano added that the future use of the interim senior center be discussed with Council.

Commissioner Mohsin suggested that she would like to see some innovative form of transportation that would put the City up on the map as being something different. She doesn't know what research the City has done and any alternate other mode of transportation, however she sees a great need where a lot of people are not driving and their licenses are not being renewed, and the elderly are not driving and bus routes are an issue. She suggested an alternate mode of transportation.

Vice Chair Lalwani asked Commissioner Mohsin if she would recommend that the Council look into the PRT system and Commissioner Mohsin said that PRT could be included as well.

Motion to recommend to Council a performing arts center, adding windows in the basketball gym, looking at the future use of the interim senior center and looking at an innovative form of transportation such as the PRT system.

M/S: Lalwani/Mohsin

AYES: 6

NOES: 0

ABSTENTIONS: 1 (Garcia) – Absent at the beginning of the meeting.

Mr. McNeely noted that the comments will be going forward to Council on April 20th.

2. ADMINISTRATIVE PERMIT NO. AD2004-5:

Discussion on impervious surface area as it relates to wood decks within the hillside zoning district. *Staff Contact: James Lindsay, 586-3274.*

James Lindsay, Acting Planning Manager, presented Administrative Permit No. AD2004-5, a discussion on impervious surface area as it relates to wood decks within the hillside zoning district and noted that no action is necessary.

He noted that the Planning Commission requested staff back in the fall of last year to come back with an analysis of how wood decks are treated within the hillside ordinance as it relates to impervious surface areas. Staff has provided the history that has lead to the current practice including a recent City Attorney's opinion regarding how the issue of wood decks relates to impervious surface coverage as well as historic Planning Commission and City Council minutes that relate to the issue. As it stands today, staff is continuing to apply the City Council's decision that wood decks are treated as impervious surfaces within the hillside district with the exception of any second floor balconies, which aren't at ground level, and those are not treated as impervious surface area. He opened it up for Planning Commission discussion.

Chair Nitafan noted that since the Council already decides the ordinance does the Planning Commission need to make a recommendation.

Mr. Lindsay explained that when the ordinance was adopted in 1992 the question came up two years later in regards to the intent of impervious surface regulation, though it was very well described, it didn't include every conceivable element that could come up as impervious surface area. The question of whether wood decks were included was discussed in 1994 and the decision of the Council at that time was that yes, wood decks were meant to be included and categorized as impervious surface area. The council clarified the intent and that's at this point, how staff has continued to apply it.

He noted that if the Planning Commission wishes to forward a recommendation to City Council, to reconsider that, or to have the issue be looked at again, the Commission could very well do that and staff can forward that as a discussion item for Council consideration, but staff did provide this as a recommendation and the request was just to come back with information.

Commissioner Giordano noted that she was the one who asked staff to come back with the information because she wanted to make it very clear, particularly to an applicant when they come in. She recalled that an application was scrutinized last year, and the applicant kept coming back and trying to make the ordinance fit to what they were trying to do. She believes that the decks were raised and that terminology wasn't in the ordinance and it did create the ability for the ground water to penetrate the ground. She has read the material and felt comfortable with the Council's decision of including the decks, again. She wanted to make sure that in the attorney's letter of March 31st, that everyone is clear that when an applicant comes in to decide what they are going to do with their property, the Commission is going to reduce the amount of subjectivity. She also noted that it states that the decks and related structures could be considered impervious surface if they significantly reduce ground water penetration and asked who determines that. She asked Mr. Lindsay if he is comfortable with the City Attorney's determination of how the decks are going to be treated.

Mr. Lindsay replied that staff is comfortable with the City Attorney's opinion and will continue as in the past to inform applicants as they make requests to build decks in the hillside that they would be counted as impervious surface area. He explained that the particular applicant that came back several times in the fall built their deck without benefit of permit and never came to the City to inquire about the regulations. Therefore, staff was unable to let them know what parameters they had to work with which was an unfortunate circumstance. Staff has consistently relayed to citizens that are desiring to build decks in the hillsides, that yes, this would be counted as impervious surface area and to build it staff would need to do an impervious surface calculation. If they currently are at their maximum impervious surface area then they would need to come up with an alternative, for instance, removing a paved area to build the deck, so the amount of impervious coverage stays the same.

Commissioner Giordano asked about the discussion at the hillside review committee group where the slats had space between and allowed for water to penetrate and asked how would that be handled.

Mr. Lindsay replied that, the Council's direction does not specify any level of openness or allowing water to penetrate through. The type of wood decks that are being constructed are tight board decks just because of the nature of safety and high heels and various things that could be trapped. If at any time, the Council provides different direction saying that wood decks that have x percentage of open area would then be considered impervious surface area we would apply that. But at this time, staff is using the current intent that all decks no matter what the spacing between the boards are considered an impervious surface.

Commissioner Giordano asked about the elevation of the decks.

Mr. Lindsay commented that staff would again apply the impervious surface definition to all decks, with the exception of the second floor balconies and explained that the balcony can be easily defined as something that's not touching the ground and is usually cantilevered from the building. All decks are raised off the ground at some level due to the construction, but if they are built on poles or any similar feature, they still created in an impervious surface. The decks have a much larger coverage area than a balcony would. Balconies usually don't extend far beyond the roof overhang because the structural engineering that is required doesn't promote large surface area. A wood deck, can create a large surface area and still be raised above the ground, so I still think they are different and very easily defined at the counter in working with customers.

IX. ADJOURNMENT

There being no further business, the meeting was adjourned at 9:01p.m. to the next regular meeting of April 28, 2004.

Respectfully Submitted,

James Lindsay
Planning Commission
Secretary

Veronica Rodriguez
Recording Secretary